

No. 14/13/87-6Lab./385.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Ambala in respect of the dispute between the workman and the management of M/s Secretary, H.S.E.B., Sector 6, Panchkula (Ambala) *versus* Priti Pal :—

**IN THE COURT OF SHRI S.R. BANSAL (ADDITIONAL DISTRICT AND SESSIONS JUDGE)
PRESIDING OFFICER, LABOUR COURT, AMBALA**

Reference No. 256 of 89

WORKMAN SHRI PRITI PAL SON OF SHRI RAMJI LAL, VILLAGE DHANI RAMPURA, P.O. URNAI, TEHSIL THENESAR, DISTRICT KURUKSHETRA .. Workman

versus

(1) SECRETARY, HARYANA STATE ELECTRICITY BOARD, SECTOR 6, PANCHKULA (AMBALA).
(2) EXECUTIVE ENGINEER (OPERATION DIVISION), HARYANA STATE ELECTRICITY BOARD, PEHOWA (KURUKSHETRA), .. Management

Present : WR. Shri R.S. Seini.

MR. Shri D.R. Batra.

AWARD

In exercise of the powers conferred by clause (c) of sub section (1) of section 10 of the Industrial Disputes Act, 1947 (for short called as the 'Act'), the Governor of Haryana referred the following dispute between the workman Shri Priti Pal and the management (1)Secretary, Haryana State Electricity Board, Sector 6, Panchkula; (2) Executive Engineer (Operation Division) Haryana State Electricity Board, Pehowa (Kurukshetra) to this court for adjudication,—*vide* Haryana Government notification bearing No. 31355—360, dated 27th July, 1989 :—

"Whether the services of Priti Pal has been terminated or he himself abandoned the job ? If so, to what relief is he entitled ?"

The workman served the demand notice, dated 6th February, 1989 under section 2-A of the Act. The conciliation proceedings were taken up by the Labour Officer-cum-Conciliation Officer. The same however did not yield the desired result necessitating the making of the present reference by the appropriate government.

On receipt of reference notices were issued to the workman as well as to the management. The workman appeared and submitted his statement of claim dated 16th November, 1989. The plea is that he joined the service of the management as a daily rated worker in October, 1979 and his services were terminated with effect from October, 1983 although he served continuously more than 240 days of service. It is alleged that the workman was not served with any charge-sheet, notice nor paid any retrenchment compensation. It was further alleged that juniors to the workman were retained in service and new persons were also appointed after the termination of his services. The workman, therefore, demanded his reinstatement with continuity of service and back wages.

The claim of the workman has been resisted by the management. In its written statement dated 30th May, 1990 the management although admitted that the workmen having served from October, 1979 till September, 1983 took up the position that he himself absented from the duty and abandoned his job and further that his services were never terminated. It has also been pleaded that dispute having been raised after a period of more than five years and the claim of the workman be rejected.

The workman submitted replication countering the allegation of the management in the written statement filed and reiterating those made in the claim statement. On the rival contentions of the parties the following points in issues were laid down for decision by Shri S.D. Anand, one of my learned predecessor,—*vide* his order dated 25th October, 1990 :—

- (1) Whether the services of the workman were terminated or he relinquished the lien by abenue? OPP
- (2) If issue No. 1 is proved in favour of the workman whether the impugned termination of services of workman is invalid ? OPW
- (3) Relief

Parties led evidence. I have heard the representatives of the parties. My issue-wise findings are as under :—

Issue No. 1 and 2 :

Both these issues are inter-linked and are being taken up together.

In support of his case Shri Priti Pal, workman appeared as WW-I and broadly supported the allegations made by him in the claim statement. He also stated that his services were terminated without any notice or payment of retrenchment compensation. He maintained that his juniors namely Sat Pal, Ganga Ram, Jai Singh etc. were retained in service. On the other hand the management produced MW-I Sat Pal, J.E. of the management who stated that the workman worked upto 10th September, 1983 and absented thereafter. He produced Ex. R-1 copy of muster-roll for the month of September, 1983 depicting therein that the workman has attended his duty upto said date and absented thereafter. The management produced copy of muster-roll for the subsequent month of October, 1983 and the witness examined by it stated that the name of workman was not carried forward on account of absence from duty.

Having regard to the facts of the case that there is no dispute with regard the workman had rendered more than 240 days of service in a period preceding twelve months of his termination. It is also not disputed that no prior notice was given before terminating the services of the workman nor any retrenchment compensation was paid. The question however to be seen in this case whether or not services of workman terminated or he himself abandoned the job. In this connection it is pertinent to refer to the statement of Sat Pal, JE who stated that the workmen were working under him at the relevant time and used to mark his presence. This witness categorically stated that the workman attended to his duties upto 10th September, 1983 and absented thereafter. This part of the statement made by the witness was not challenged during the cross-examination although questions were put to this witness that he did not write any letter to join duty. It will be appropriate to mention that the workman was working with the management as a daily rated basis. It is not customary to write such letters to such workers nor any rule of law has been cited in support of this proposition. In any case the workman was shown absent after 10th September, 1983 continuously for whole of remaining month of September, 1983 as would indeed become clear from Ex. R-1. It is worth mention here is that Ex.R-1 copy of public record maintained in due course of official business and there is presumption under section 114 of the Evidence Act that all official acts have been duly performed. It thus follows that the entries made in Ex.R-1 will be taken to have been correctly made. It is thus quite evident that the workman absented himself from the job and thereafter did not return to his duty. Since he is daily rated worker it was not incumbent upon the management to serve any notice upon him especially when he has not chosen to set the law in motion for a period of about six years. This coupled with the delay in serving the demand notice makes it abundantly clear that the workman is not entitled to any relief. The finding on these issues is, therefore, returned against the workman and in favour of the management.

Relief:

In the end, it is held that the workman is not entitled to any relief.

The reference shall stand answered accordingly.

S. R. BANSAL,

The 27th January, 1995.

Additional District and Sessions Judge,
Presiding Officer, Labour Court, Ambala.

Endorsement No. 132, dated 1st February, 1995.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

S.R. BANSAL,

Additional District and Sessions Judge,
Presiding Officer, Labour Court, Ambala.